I join Justice Brandeis' grandson, Frank Gilbert, and the rest of his family in urging my colleagues to support H. Res. 905, recognizing the 70th anniversary of the retirement of this legendary American educator, litigator, and jurist.

Mr. COHEN. I appreciate Mr. YARMUTH bringing this resolution and his comments. I reserve my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

It is interesting that we have heard of Justice Brandeis' commitment to the First Amendment. One can only wonder what he would think of the current state of interpretation of the First Amendment where, unfortunately, it appears that we give greater protection to nude dancing than we do to political speech.

One would hope that the Supreme Court, as we anticipate its decision in the most recent challenge to aspects of McCain-Feingold, might listen to some of the interpretations and wisdom of Louis Brandeis with respect to the essence of the First Amendment.

One would hope that we would, once again, regain the notion that protection of political speech is at the forefront of the First Amendment, not an afterthought to the First Amendment, and that when we have gone so far as to have someone representing the Solicitor General of the United States, responding to a question in the Supreme Court, saying in response to the question, So, the law would give you the right to ban books if they said what is contained in the script of the movie that the FEC believes it has the right to stop during the period of time before an election, the response from the representative of the executive branch was, yes. If we have come so far that banning books is seen as something allowed under the First Amendment because of the pursuit of purity in political campaigns, then we have lost sight of the First Amendment as understood and expressed by Louis Brandeis.

And so I would hope that as we look forward to the end of this year that we could look forward to a Supreme Court that comes to its senses and understands the essence of the First Amendment.

Once again, I would urge my colleagues to unanimously support this recognition on the 70th anniversary of the retirement from the Supreme Court of Louis Brandeis.

I yield back the balance of my time.

Mr. COHEN. Mr. Speaker, indeed, Justice Brandeis had a great impact on this country, not only as a jurist, as we've mentioned, but as a lawyer. And one of his innovations was something called the Brandeis Brief, where not only were precedents used to make an argument but social data, factual data about changes in society to support the Court's positions.

Brandeis was not alive at the time of Brown v. Board of Education of Topeka, one of the great decisions of our Supreme Court, but it was a Brandeis Brief argument that was used to win that case, for there was little law on the subject that was favorable, but there was much social analysis and facts that helped the Court make its decision that separate, in fact, was not equal, and that we needed a change in this country that we had in 1954 that we're continuing to experience today.

Justice Brandeis had many quotes which were of great significance, one of which is inscribed in the walls of Congress, I think just beneath this Chamber on the first floor. If you look up towards the ceiling, The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding. That quote, which is inscribed on the walls of Congress, is one that I've long thought about, and people making arguments that sometimes are well meant but they take away from the rights that people should have in this country and freedoms.

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Brandeis also said we can have democracy in this country or we can have great wealth concentrated in the hands of the few, but we can't have both. And that thought permeates much of what we debate in this Congress today and see as the differences in wealth grow greater and greater.

Indeed, Georgia O'Keeffe, one of my favorite painters, and Warren Zevon, one of my favorite songwriters, singers and friends, would appreciate this resolution today, for the right to be alone, the most comprehensive of rights and the right most valued by civilized man, was something Louis Brandeis espoused, as did O'Keeffe and Zevon. Justice Brandeis said the most political office is that of a private citizen. And I think we should all remember that.

Mr. Speaker, I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and agree to the resolution, H. Res. 905.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. COHEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

LAW STUDENT CLINIC PARTICIPATION ACT OF 2009

Mr. COHEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4194) to amend title 18, United States Code, to exempt qualifying law school students participating in legal clinics or externships from the application of the conflict of interest rules under section 205 of such title.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Law Student Clinic Participation Act of 2009''.

SEC. 2. LAW STUDENT CONFLICT OF INTEREST EXEMPTION.

Section 205 of title 18, United States Code, is amended by adding at the end the following:

''(j) Subsections (a) and (b) do not apply to a law student or legal clinic staff member participating in the legal clinic or externship of an accredited law school, with respect to a matter within the scope of the clinic or externship, unless—

''(1) the student or staff has participated personally and substantially in the matter as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

''(2) the matter is pending in the department or agency of the Government in which the student is serving.''.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon the expiration of the 60-day period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COHEN) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

GENERAL LEAVE

Mr. COHEN. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COHEN. I yield myself such time as I may consume.

Mr. Speaker, H.R. 4194 would address an unfortunate consequence of current law that hinders participation by law students in pro bono clinics, which limits the provisions of these needed services to the community. It is appropriate that this resolution follow that of Justice Brandeis, who really was the father of pro bono work.

Title 18, section U.S.C. 205 makes it a crime for a Federal Government employee to provide legal assistance to anyone bringing a case adverse to the United States or in bringing a case adverse to a substantial U.S. interest. Section 205(b) applies the same rule to employees of the District of Columbia.

For law school students or legal clinic staff who hold government jobs, this criminalizes participation in a wide range of political programs, including those funded by the Federal Government. Law students or legal clinic staff who are full- or part-time government employees face criminal penalties if they participate in law school pro bono

clinics that represent plaintiffs whose claims are adverse to the Federal or D.C. Governments. Yet this opportunity is important for students to learn their craft and become lawyers.

This disqualifies the law students from participation in many service activities that benefit both the students and the wider community, among them juvenile justice clinics, death penalty appeal projects, advocacy programs on behalf of parents with special needs children, and low-income taxpayer clinics.

This also has the perverse effect of forcing law students to choose between government service and community service. It also needlessly deprives government employees of a range of real-world educational experiences that would be particularly beneficial to them when they become lawyers. Just this year, this Congress passed the Edward Kennedy Service Act encouraging people to participate in public service, and this is another area where we should encourage it.

This is a misguided choice to force on law students, for they should be able to have both government and community service and be encouraged to do so. This bill will stop the law from forcing them to have this conflict.

Section 205 already contains an exemption that narrows the definition of ''conflict of interest'' to those instances of actual conflict: cases in which a government attorney substantially and personally participated as a government employee, and cases in which the employee's department or agency is currently directly participating.

By applying this exemption to law students and legal clinic staff, the bill will eliminate the pernicious effects of section 205 while retaining its safeguards against true conflict of interest. Law students and legal clinic staff would be able to participate in law school clinics that are, by their nature, adverse to the Federal or D.C. Government while continuing to prohibit actual conflicts of interest involving specific parties.

Law students and staff who choose government service would remain subject to governmental conflict of interest rules while also being permitted to enjoy the same clinical resources and opportunities as their peers.

I commend our colleague Congressman DAN LUNGREN from California for his leadership on this important bill, and I urge my colleagues to support it.

I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4194, the Law Student Clinic Participation Act of 2009, makes a simple yet important change to Federal law so as to increase law students' access to clinics and other law school programs.

Nearly 44,000 law students nationwide will graduate this year from more than 200 law schools across this country. During their time in school, each of these students will study property, criminal, constitutional, and contract law, just to name a few. And these classes not only instruct the students on the relevant case law or statutes but also attempt to teach them how to think like a lawyer; that is, to analyze cases from a lawyer's perspective.

As important as that is, equally important are the clinical programs offered by virtually every law school in the country that teach students how to practice law. Clinical programs include prosecution and defense, appellate advocacy, including death penalty appeals projects, juvenile justice, and even tax assistance clinics. Yet, a little-known provision in Federal criminal law—Federal criminal law; that is, it makes is a crime—prevents certain law students from participating in these clinics. In other words, they would be subject to criminal penalties if they participated in these clinics. That is because section 205 of title 18 prescribes criminal penalties for government employees who provide outside legal assistance in a case against the United States or adverse to a substantial U.S. interest. Therefore, law school students, or even staff, who are also employed by the Federal Government, full time or part time, may be barred from participating in these valuable clinical programs.

The impact of this provision is perhaps no greater than right here in our Washington, D.C., metropolitan area, which is the home to over half a dozen law schools. It comes as no surprise that many of these schools' students are also Federal Government employees. Some of the schools have night programs, so the students work full time during the day and take classes at night. Many times they do work for the Federal Government or the D.C. Government, but because of their employment, they are, therefore, disqualified from participating in these extremely beneficial programs. This was most certainly not Congress' intent when it enacted section 205.

H.R. 4194, remedies this problem by extending an existing exemption within the statute to include Federal employee law students. The bill, therefore, appropriately allows students and staff to participate in clinics, including those that are adverse to the Federal or D.C. Governments; however—and this is important—the bill continues to prohibit any actual conflict of interest involving specific parties. Therefore, if the student or staff member is involved in a matter which would be a direct conflict of interest, they are not covered by this waiver. It would seem that this is a commonsense solution to provide those students employed by the government the same opportunities as other students.

I might say, Mr. Speaker, when this came to my attention, I thought that perhaps we could have a relatively simple, straightforward waiver or exemption to take care of this problem, which was unanticipated by the Congress when it passed the relevant law, and, therefore, I would urge my colleagues to join me in supporting this bill.

And if the gentleman from Tennessee has no other speakers, I would yield back the balance of my time.

Mr. COHEN. Mr. Speaker, we have no further speakers.

Mr. Speaker, I just want to thank Mr. LUNGREN for bringing this to us. It is important that the law students do have this opportunity and that the conflicts be real and not imagined. I would like to encourage a ''yes'' vote and would move that we pass the bill at this time.

I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLUMENAUER). The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and pass the bill, H.R. 4194.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. COHEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 894, by the yeas and nays;

H.R. 1517, de novo;

H.R. 3978, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

HONORING 50TH ANNIVERSARY OF THE RECORDING OF ''KIND OF BLUE''

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 894, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and agree to the resolution, H. Res. 894.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 25, as follows: